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In the Supreme Court of the United States
October Term, 1996

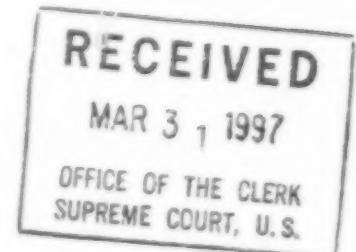
MARVIN KLEHR AND MARY KLEHR,
Petitioners,

v.

A.O. SMITH CORPORATION AND
A.O. SMITH HARVESTORE PRODUCTS, INC.,
Respondents.

On Writ of Certiorari to the
United States Court of Appeals for the Eighth Circuit

MEMORANDUM OF PETITIONERS REGARDING
THE MOTION OF AMICI CURIAE
FOR DIVIDED ARGUMENT AND FOR LEAVE TO ARGUE ORALLY



Petitioners submit this response to the motion of amici curiae, the American Council of Life Insurance ("ACLI") and American Honda Motor Company, Inc. ("Honda"), to correct misstatements contained in ACLI/Honda's memorandum regarding the issues pending before the Court.

In their motion, ACLI and Honda identify four alternative RICO accrual rules and suggest that Petitioners rely upon one of the rules identified. In fact, Petitioners rely on a fifth rule of accrual identical to the rule which is applied in criminal RICO cases. That rule provides that the

statute of limitations begins to run when the defendant commits the last predicate act in the pattern of acts which injured the plaintiff. Unlike the Third Circuit's "last predicate act" rule, the rule Petitioners propose does not run from the later of the last predicate act or last injury. In addition, adoption of the criminal rule does not require the Court to adopt the "discovery" component of the Third Circuit rule.

Petitioner takes no position with respect to the moving party's motion but seeks only to correct the misstatement described above.

Respectfully submitted,

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ATTORNEYS FOR PETITIONERS
MARVIN AND MARY KLEHR

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

AFFIDAVIT OF SERVICE BY MAIL

Kathleen Jacks, being duly sworn deposes and states that on the 26th day of March, 1997 she served the following:

Memorandum of Petitioners Regarding the Motion of Amici Curiae for Divided Argument and for Leave to Argue Orally

by placing a true and correct copy thereof in an envelope addressed as follows, and deposited the same with first-class postage prepaid, in the United State mail at Minneapolis, Minnesota, to:

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Kathleen Jacks
Kathleen Jacks

Subscribed and sworn to before
me this 26th day of March, 1997.

Andrea L. Bischoff
Notary Public

